

VZCZCXRO4682  
RR RUEHDBU  
DE RUEHEK #0222/01 0640231  
ZNY CCCCC ZZH  
R 050231Z MAR 07  
FM AMEMBASSY BISHKEK  
TO RUEHC/SECSTATE WASHDC 9045  
INFO RUCNCIS/CIS COLLECTIVE  
RUEHBJ/AMEMBASSY BEIJING 1971  
RUEHLM/AMEMBASSY COLOMBO 0076  
RUEHKA/AMEMBASSY DHAKA 0088  
RUEHIL/AMEMBASSY ISLAMABAD 0553  
RUEHBUL/AMEMBASSY KABUL 0376  
RUEHKT/AMEMBASSY KATHMANDU 0085  
RUEHNE/AMEMBASSY NEW DELHI 0243  
RHEFDIA/DIA WASHDC  
RUEKJCS/OSD WASHDC  
RUEAIIA/CIA WASHDC  
RHEHNSC/NSC WASHDC  
RUEKJCS/SECDEF WASHDC  
RUEKJCS/JOINT STAFF WASHDC  
RUEHGV/USMISSION GENEVA 0487  
RUEHVEN/USMISSION USOSCE 2381  
RUCNDT/USMISSION USUN NEW YORK 1765  
RUEHNO/USMISSION USNATO BRUSSELS BE  
RUEHBS/USEU BRUSSELS  
RUEHLMC/MILLENNIUM CHALLENGE CORP  
RUMICEA/USCENTCOM INTEL CEN MACDILL AFB FL

C O N F I D E N T I A L SECTION 01 OF 02 BISHKEK 000222

SIPDIS

SIPDIS

DEPT FOR SCA/CEN

E.O. 12958: DECL: 03/02/2017

TAGS: [PGOV](#) [PREL](#) [KDEM](#) [KG](#)

SUBJECT: AMBASSADOR COMPLAINS TO KYRGYZ OMBUDSMAN ABOUT  
"INSPECTIONS" OF U.S. NGO'S

REF: 06 BISHKEK 1706

BISHKEK 00000222 001.2 OF 002

Classified By: Amb. Marie L. Yovanovitch, Reason 1.4 (b) and (d).

11. (C) SUMMARY: Ambassador met February 28 with Kyrgyz Ombudsman for Human Rights Tursunbay Bakir uulu to protest the Ombudsman's "inspections" of U.S. Government-funded assistance implementers. Bakir uluu claimed it was "within his right" to investigate all foreign-funded organizations for potential "human rights abuses," including the failure to make Social Fund payments on behalf of their Kyrgyz employees. The Ambassador pointed out that inquiries regarding accredited, USG-funded assistance implementers should be channeled through the Ministry of Foreign Affairs. The Ambassador further pointed out that USAID and other international donors have been working with the MFA and the Social Fund to resolve issues related to the Social Fund.  
END SUMMARY

BACKGROUND  
-----

12. (C) Over the past month, the Kyrgyz Ombudsman's Office has launched inspections of international organizations to check compliance with Kyrgyz Social Fund legislation. International donor representatives have drafted a letter (not yet sent) to the Ombudsman, pointing out that, given the accreditation status of their organizations under the Vienna Convention, the Ombudsman can inspect their organizations only with their consent, and they respectfully decline the Ombudsman's "request" to inspect their organizations.

13. (C) The Ombudsman's Office has contacted USAID, as well as

USG-funded assistance implementers IREX, ACCELS, NDI, IRI, and Freedom House, to demand copies of financial records. IRI, NDI, and Freedom House have written letters to the Ombudsman, detailing their Social Fund payments, to the apparent satisfaction of the Ombudsman's Office. When IREX and ACCELS declined to provide records and asked the Ombudsman's representative to contact the Embassy, the Ombudsman's representative became hostile and belligerent, making threats against the organizations.

¶4. (C) There has not been a consistent policy regarding payment of Social Fund taxes for Kyrgyz citizen employees. Some international organizations have paid employer and employee contributions; others haven't. The Kyrgyz-UK bilateral agreement specifically exempts UK-funded assistance projects from Social Fund taxes. Donor representatives, including USAID, held several meetings with MFA and Social Fund representatives last year, most recently in October, to discuss the issue. The MFA and Social Fund undertook to get back to the donors with a proposal, which has not happened. In a February 9 meeting with the Charge, Deputy Foreign Minister Sarbayev offered to organize a meeting of concerned parties with the purpose of resolving issues related to the Social Fund, to include representatives from the ministries of Foreign Affairs and Finance, the Social Fund, and representatives from donor organizations such as USAID, the UK's Department for International Development, Germany's GTZ, and the Swiss Cooperation Office. The Embassy has repeatedly reminded DFM Sarbayev of this commitment, and is awaiting word from MFA regarding the time and venue for the meeting.

IT'S "OUR RIGHT" TO INVESTIGATE  
-----

¶5. (C) The Ombudsman for Human Rights Tursunbay Bakir uulu,  
BISHKEK 00000222 002.2 OF 002

together with his team of labor and social security experts, told the Ambassador February 28 that it is within their right to inspect all organizations that employ Kyrgyz citizens to ensure human rights violations are not being committed. That includes issues of payment, work conditions, overtime, whether leaves of absence are permitted, and if regular payments are made to the Social Fund. Claiming to understand the parameters of the Vienna Convention, the Ombudsman's Office insisted that they are bound by law to investigate possible cases of abuse, as interpreted by their office. Bakir uulu added that his office does not seek to extract secret information -- "We're not the KGB," said the Ombudsman

SIPDIS

-- from such organizations, or attempt to shut them down. Rather, they simply want to ensure that all foreign-funded organizations, as well as international corporations, adhere to Kyrgyz law.

¶6. (C) The Ambassador agreed that it is the responsibility of all concerned parties to follow the law, adding that it was necessary for the government to provide a unified response to the donor community -- especially since consistent regulations do not currently exist. Expressing the donor community's desire to resolve such issues quickly, the Ambassador reiterated the need to channel all inquiries through the MFA. Doing so would help maintain consistency and limit the number of government agencies involved in the same issue, and she noted that a number of Kyrgyz institutions (including MFA, Social Fund, and Prosecutor General) have expressed interest in the issue recently. The Ambassador added that upholding good working conditions for local employees is a goal for the entire donor community, and not only because doing so is mandated by Kyrgyz law. That is why we understand the Ombudsman's concerns, said the Ambassador, and that is why it is important to work with one partner, like the MFA, that can speak authoritatively for the government.

COMMENT: UN-COORDINATED HARASSMENT?

-----

¶7. (C) We have been working directly with the MFA to try to bring together all of the concerned parties to resolve outstanding issues related to the Social Fund. We do not believe that the Social Fund problems are insurmountable, but progress -- even getting the right people together for a meeting -- has been slow. Following the Prosecutor General's investigations of U.S.-funded democracy programs last November and December (reftel) -- apparently turned off, at least for now -- and with current difficulties with the MFA over the accreditation for three third country nationals working for USAID implementers, the Ombudsman's "inspections" appeared to us to be part of a pattern of harassment. It is also quite possible that one part of the Kyrgyz government is not telling the other what it is doing. Nevertheless, it seems that the law is continuing to be selectively applied, a point we make repeatedly to the MFA, which we are insisting should be our primary interlocutor. Ambassador will raise the issue in a meeting with the Foreign Minister on March 6.

YOVANOVITCH